IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Crl.Rev.Pet.No. 3835 of 2007()

CRA.958/2006 of I ADDL.SESSIONS COURT, ERNAKULAM
CC.49/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

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REVN. PETITIONER: COMPLAINANT IN C.C:

M/S.COMFORT MARKETING AGENCIES,
A PARTNERSHIP FIRM HAVING IT'S OFFICE AT 48/286-C,
PERANDOOR ROAD, KALOOR, KOCHI-26, REPRESENTED
BY IT'S PARTNER, P.M.ABDUL MAJEED, AGED 51 YEARS,
S/O.LATE MR.P.A.MOHAMMAD, PUTHIYAVEETTIL HOUSE,
48/617 A 1,KEERTHINAGAR, COCHIN-26.

BY ADV. SRI.P.M.MOHAMMED SHIRAZ

RESPONDENTS: RESPONDENT NO.1/ACCUSED IN C.C:

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1. BABY, S/O.RAMANARAYANAN,
PULAKKAL HOUSE, PAZHAYANNUR, TRICHUR DISTRICT.

2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. NO. 3835 of 2007

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Dated: 31-10-2007

ORDER

The revision petitioner is the complainant in a prosecution under Sec. 138 of the Negotiable Instruments Act, 1881 in respect of a cheque involving a sum of Rs. 61,824/- issued by the accused in the case on 30-09-2001. The learned Magistrate, after trial, found the accused guilty and sentenced him to imprisonment for six months and to pay a sum of Rs. 85,000/- as compensation under Sec. 357 (3) Cr.P.C.. On appeal preferred by the accused before the Sessions Court, Ernakulam as Crl.Appeal No. 958 of 2006 has confirmed the conviction but has altered the sentence to one of imprisonment till rising of court and to pay compensation of Rs. 70,000/- under Sec. 357 (3) Cr.P.C. In default to pay the compensation he was directed to pay simple imprisonment for three months.

2. The revision petitioner/complainant would contend that the lower appellate court has reduced the compensation amount to Rs. 70,000/- from 85,000/- awarded by the trial court without any valid reasons. I cannot agree. The cheque amount itself is only Rs. 61,824/-. Merely because 7 years have elapsed, that is no reason as

to why a sum of Rs. 85,000/- is to be awarded as compensation. If the complainant was entitled interest and such other amounts on the principal amount he should have approached the civil court . The process of the criminal court cannot be made use of for making such enrichment. If at all the lower appellate court has erred that was in imposing the default sentence which is not permissible in law. I see no reason to entertain this revision which is accordingly dismissed.

V. RAMKUMAR,
(JUDGE)

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